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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,584	02/22/2002	Kenichi Mizugaki	ASAM.0046	7301

7590

08/28/2003

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EXAMINER

ISSING, GREGORY C

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/079,584

Applicant(s)

MIZUGAKI ET AL.

Examiner

Gregory C. Issing

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 4, is not understood, particularly, the language “to provide a service made based upon.”

In claim 3, lines 3-4, the language “transmits a request of providing said service to a service provider’s server” is not understood.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Roel-Ng et al.

Roel-Ng et al disclose a system and method for informing a network of terminal based positioning capabilities wherein the network determines the optimum positioning method, having knowledge of all available network-based and terminal-based methods. It is taught that location services can be used for determining location of stolen cars, E911 and position-based services

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locating restaurants, gas stations or hospitals. See Figures 4 and 5 for the steps involved in determining the optimum location determination method.

5. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Bloebaum.

6. Bloebaum discloses the claimed method and system including a mobile terminal 100, shown in Figure 2, as comprising a positioning unit 101 and a communication unit 110, a communication network 14 and a location server 18. The mobile terminal may receive a quality of service message from a remote requesting application at the server. In response thereto, the mobile terminal may request further aiding information which may be provided by the server. The mobile terminal subsequently determines the position using pseudoranges, i.e. propagation delay measurements, based on the quality of service message wherein the operation of the positioning unit is variably set for example as "most accurate," fastest," or "least expensive." Suggested use includes a location-dependent information service wherein it is known for a mobile terminal to transmit position to a remote site for acquiring services therefrom.

7. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kinnunen et al.

Kinnunen et al teach [0006] combination of GPS with wireless communication for location dependent services. Kinnunen et al show a mobile entity, LDS client, that derives position information and requests location dependent services from a network, which network includes a location server and an service server, see Figure 5, for example. The system preferably includes a selector for selecting location information from one particular location information source when more than one is available [0024]. Figure 2 shows the mobile terminal as an integrated mobile communication device [0073]. Available sources of location information are pooled and the best, or most appropriate may be used [0098].

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al in view of Pande et al.

Gilbert et al teach a GPS receiver having selectable accuracy/configuration levels related to the type of application the receiver is performing as well as the environment in which the receiver is operating, see Figure 7A, for example. Gilbert et al differ from the claimed subject matter since it is a stand-alone GPS receiver with user selectable controls. Pande et al teach a mobile terminal having a transmitter, a receiver and a positioning unit which mobile terminal communicates via a communication network to a location aiding server. Within the mobile terminal, a call processor 200 sends a message to a processor 202 indicating the quality of service requirements. The suggested use is a server-client architecture for implementation of E911 and geo-location services. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gilbert et al by incorporating the GPS terminal in an integrated GPS/cellular phone in view of the conventionality of such as taught by Pande et al. The combination would provide an integrated mobile device having a communication transmitter and receiver as well as a positioning unit wherein the accuracy of the position determination is variably set. Pande et al also teach various strategies for determining the various levels of quality [0044].

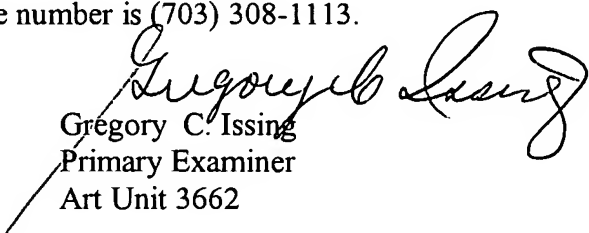
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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fitzgerald et al disclose in Figure 1, a plurality of mobile terminals 31, 32, and a master station 11 wherein in Figure 2 there is shown for a mobile terminal a data link radio 50 comprising a transmitting and receiving unit, a positioning unit in the form of either GPS 44 or CATIES 43 and a communication interface, further shown in Figure 3. The accuracy level of the position information transmitted from the mobile terminal to the master terminal is variably set wherein the mobile terminal determines position with a most accurate method (differential GPS), a next most accurate method (multilateration) and a least accurate (autonomous GPS). Nowak et al disclose the claimed method and system including as shown in Figure 1, a wireless station 102 having communication capabilities, a plurality of location finding equipment 104, 106, 108, a wireless communication network 110 and a location management system 114.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (703)-306-4156. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (703)-306-4171. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Gregory C. Issing
Primary Examiner
Art Unit 3662

gci